IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3619 OF 2006
IN
APPEAL NO. 512 OF 2006
IN
COMPANY PETITION NO. 262 OF 2005

Cowtown Land Developers Pvt. Ltd.] .. Appellants

Versus

1. Bela w/o Vikram Sehgal & 6 ors.] .. Respondents

Dr. Virendra Tulzapurkar, senior counsel i/b M/s. Kanga & Co. for the appellants.

Mr. S.A. Shah i/b Mr. S.G. Vakil for the respondents No.1 and 2.

Mr. C.U. Singh, senior counsel with Ms. A. Wandrewala i/b Mr. Madhukar Haramwar for respondents No.3 - 6.

Ms. Gayatri Singh for respondent No.7.

CORAM: R.M. LODHA, &
S.A. BOBDE, JJ.

DATED: 06TH NOVEMBER, 2006

P.C. :

. As soon as the Notice of Motion was called out, the counsel for the respondents No.1 and 2 submitted that the respondents No.1 and 2 who are original petitioners in Company Petition No.262 of 2005 are not desirous of prosecuting the Company Petition in view of the pendency of the Writ Petition before the

Delhi High Court. The counsel for the respondents No.1 and 2 submitted that an application (Praecipe) was made to the learned Company Judge on 11th October, 2006 for withdrawal of the Company Petition. He also placed before us, the order dated 13th October, 2006 passed by the learned Company Judge directing the present respondents No.1 and 2 to seek clarification from the Division Bench.

2. The senior counsel and the counsel appearing for the parties jointly submitted that the application for withdrawal of the Company Petition may be considered by us and that the appellants have no objection if the Company Petition is allowed to be withdrawn. The senior counsel for the appellants, however, submitted that the amount deposited by the appellants pursuant to the order dated 19th September, 2006 may be allowed to be withdrawn.

3. Having considered the matter, we pass the following order:

(1) Company Petition No.262 of 2005 is permitted to be withdrawn without prejudice to the rights and contentions of the petitioners (respondents No.1 and 2 herein)

in the Writ Petition pending before the Delhi High Court.

(2) In view of the withdrawal of the Company Petition No.262 of 2005, this Appeal does not survive and stands disposed of as infructuous.

(3) The amount deposited by the appellants pursuant to the order dated 19th September, 2006 is allowed to be withdrawn.

(4) For redressal of the grievance, each party is at liberty to pursue appropriate remedy in accordance with law.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]